

1982 WL 189209 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 17, 1982

\*1 Mr. Joseph H. Earle, Jr.  
Greenville County Attorney  
14-A Courthouse Annex  
Greenville, South Carolina 29601

Dear Joe:

I am in receipt of your letter of February 19, 1982 in which you requested an opinion as to the date of a referendum election on the question of whether or not an ordinance should be repealed.

According to the information submitted by you, on September 8, 1981 the Greenville County Council authorized by ordinance the issuance of bonds for the construction of a coliseum. On November 6, 1981 a petition was filed seeking to repeal the ordinance by which the bond issue was authorized. On February 2, 1982 the County Council rejected the petition to repeal the ordinance and a referendum on whether or not the ordinance should be repealed was set for June 8, 1982.

The governing statute appears to be Section 4-9-1230 and provides, in part, that:

... if the council shall fail to repeal the ordinance for which a petition for repeal has been presented, the adoption or repeal of the ordinance concerned shall be submitted to the electors not less than thirty days nor more than one year from the date the council takes its final vote thereon. The council may, in its discretion, and if no regular election is to be held within such period, provide for a special election.

In the opinion of this Office, the 'final vote thereon' has reference to the vote of the County Council on February 2, 1982 in which the County Council declined to repeal the ordinance providing for the bond issue. Therefore, if a regular election is to be held within a year from February 2, 1982, the referendum must be conducted at that time. The intervention of a primary date on June 8, 1982 is not a regular election. The cases cited in the letter of Mr. Eckstrom, Assistant Attorney General, are supportive of this view, and to these should be added the South Carolina case of [Young v. Sapp](#), 167 S.C. 364, 166 S.E. 354. These cases clearly indicate that a primary election is not a regular election.

I advise, therefore, that, in the opinion of this Office, the referendum should be set for the General Election date of November 6, 1982 for the referendum on whether or not the ordinance of the County Council adopted September 8, 1981 should be repealed. Sincerely,

Treva G. Ashworth  
Senior Assistant Attorney General

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